

U.S. Probation & Pretrial Officers Officers of the Court

United States Probation Office
Northern District of Iowa

Robert J. Askelson
Deputy Chief U.S. Probation Officer
January 27, 2006

02/06/2006

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Welcome & Introduction

- ❑ Welcome and Thank You for Attending
- ❑ Robert J. Askelson
- ❑ Current Position: Deputy Chief USPO - April 2005 to present
- ❑ 10 years in Presentence Unit – Three different positions
 - ◆ Supervising Probation Officer
 - ◆ Senior Probation Officer (Sentencing Law Specialist)
 - ◆ U.S. Probation Officer (Presentence Writer)
- ❑ Prior to the Judiciary: 10 years employed by the Federal Bureau of Prisons (FBOP)

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Presentation Overview

- ❑ U.S. Probation & Pretrial Officers – Officers of the Court
 - ◆ Oath of Office
 - ◆ Code of Conduct for Judicial Employees
 - ◆ Charter for Excellence
- ❑ The Role of the Probation Officer in Guideline Sentencing – An Evolving Role
 - ◆ Fed.R.Crim.P. 32
 - ◆ Publication 107 of the Administrative Office of the U.S. Courts
 - ◆ Case Law

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Presentation Overview (cont.)

- ❑ The Officer's Investigation in the Presentence Report
 - ◆ The Impact of the Plea Agreement Section of PSIR
- ❑ The Officer's Authority to Discuss/Recommend Departures
 - ◆ Fed.R.Crim.P. 32
 - ◆ Part E. of PSIR – Factors That May Warrant Departure
 - ◆ Part F(???) of PSIR – Factors That May Warrant Variance

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Presentation Overview (cont.)

- ☐ The Probation Staff of the Northern District of Iowa
 - ◆ Photo/Organization Chart
- ☐ Closing Remarks
- ☐ Questions

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Oath of Office

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same, that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

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Code of Conduct for Judicial Employees

CANON 1: A JUDICIARY EMPLOYEE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY AND OF THE JUDICIAL EMPLOYEE'S OFFICE

An independent and honorable Judiciary is indispensable to justice in our society. A judicial employee should personally observe high standards of conduct so that the integrity and independence of the Judiciary are preserved and the judicial employee's office reflects a devotion to serving the public.

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Charter for Excellence

We, the members of Probation and Pretrial Services of the United States Courts, are a national system with shared professional identity, goals, and values. We facilitate the fair administration of justice and provide continuity of services throughout the judicial process. We are outcome driven and strive to make our communities safer and to make a positive difference in the lives of those we serve. We achieve success through interdependence, collaboration, and local innovation. We are committed to excellence as a system and to the principles embodied in this Charter.

Conceived at the Federal Judicial Center's 2000 and 2002 National Chiefs' Conferences.

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The Role of the Probation Officer in Guideline Sentencing – An Evolving Role

- ❑ The Probation Officer's Role, Initially and Primarily Rehabilitative, has Evolved in Response to a Changing Criminal Justice System
- ❑ Presently, the Probation Officer functions as both an Investigator and Finder of Facts

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Relevant Authorities

- ❑ Rule 32(c)(1)(A)
 - ◆ Probation Officer must conduct a presentence investigation and submit a report to the Court.
- ❑ Rule 32(d)(1)(A) thru (E)
 - ◆ The report must:
 - ◆ Identify all applicable guidelines and policy statements;
 - ◆ Calculate the offense level and criminal history category;
 - ◆ State the sentence range and kinds of sentences available;
 - ◆ Identify factors relevant to the appropriate kind of sentence; or the appropriate sentence within the applicable sentencing range; and
 - ◆ Identify any basis for departing from the applicable sentencing range.

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Publication 107 of the Administrative Office of the U.S. Courts

A primary role of the probation officer is to prepare a presentence report of the highest quality for the Court that will assist in sentencing a defendant. Under guideline sentencing, the probation officer's role as **the Court's independent investigator** is critical, although the scope of the investigation may be determined by the Court . . . [in determining a tentative guideline range, the officer must] **thoroughly explore and analyze the circumstances of the offense and the offender**. (emphasis added).

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Case Law

- ☐ Courts have Uniformly Upheld the Independent Role of the Probation Officer in Federal Guideline Sentencing

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The Impact of the Plea Agreement Section

- ❑ Officer makes a comparison of the sentencing range which results from the independent investigation by the probation officer, where different, with that which results from the parties' stipulations.

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Authority to Discuss/Recommend Departures

- ❑ The Presentence Report must, under Rule 32(d)(1)(E), identify any basis for departing from the applicable sentencing range.

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PART E. – Factors That May Warrant Departure

- ❑ Benefits associated with Officers assisting the Court in determining departures
 - ◆ Provides necessary NOTICE
 - ◆ Facilitates better ADVOCACY
 - ◆ Frames the ISSUES prior to sentencing
 - ◆ Assists the Court by providing specific FACTUAL BASES for departure factor and extent of departure

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PART F – Factors That May Warrant a Variance

- ❑ The Probation Officer's Role – An Ever Evolving Role
- ❑ United States v. Booker – A Whole Other Presentation

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 USPO


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 OFFENDER SPEC


RICK MILES
 SH USPO -
 PREARREST/SAFETY SPEC


MATT STUMBEVANT
 USPO


RONICA PREISTER
 USPO


CHRIS HOPPER
 USPO


LAURIE BARCLAY
 PRETRIAL OPER CLERK



LAURA SALINAS
 PROB CLERK

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 USPO - PSIR UNIT



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DOTTIE SAMPSON
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BRIAN DAVIES
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 HEALTH/SEX OFF SPEC



ANN VESTLE
 SH USPO - PROG
 Dev SPEC



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Thank You for Your Time and Attention

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